

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

MAILED

APR 23 2003

Ex parte KIP VAN STEENBURG

**PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application 09/660,433

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences (BPAI) on April 4, 2003. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

A reply brief was mailed on April 8, 2003 and matched with the application file on April 14, 2003 (Paper No. 18). There is no indication in the record the examiner has considered this reply brief.

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In addition, on March 25, 2003 (Paper No. 17) the examiner filed his examiner's answer. There is no clear indication that an appeal conference was held. The Manual of Patent Examining Procedure (MPEP) § 1208 states:

The participants of the appeal conference should include (1) the examiner charged with preparation of the examiner's answer, (2) a supervisory patent examiner (SPE), and (3) another examiner, known as a conferee, having sufficient experience to be of assistance in the consideration of the merits of the issues on appeal.

...

On the examiner's answer, below the primary examiner's signature, the word "Conferees:" should be included, followed by the typed or printed names of the other two appeal conference participants. These two appeal conference participants must place their initials next to their names. This will make the record clear than an appeal conference has been held.

Upon receipt of the appeal case by the Board of Patent Appeals and Interferences (Board), the Board should review the application prior to assigning an appeal number to determine whether an appeal conference has been held.

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Accordingly, it is

ORDERED that the application is returned to the examiner for consideration of the Reply Brief, proper written notification to appellant of said notification, proper indication that an appeal conference was held with written notification to appellant that an appeal conference was held, and for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

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